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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,844	07/18/2003	Gerald Lynn Baker	THOLAM,P207US	4760
20210	7590	01/11/2005		
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			EXAMINER JOHNSON, JERROLD D	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,844

Applicant(s)

BAKER ET AL.

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to because the elements 30-38 as identified in the drawings are inconsistent with the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 4-7, 10, 12-15, 22, 27-29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011.

Hourston discloses a bulk bag with integral pallets, comprising: flexible bag body having a bottom and sidewalls; at least two elongate pallet members having axially extending openings adapted to receive fork tines from a fork lift, means for securing each of the at least two elongate pallet members to the bottom of the bag body (straps see the spec. page 2 lines 45-49. Note that the recitation "means for securing each of the at least two elongate pallet members to the bottom of the bag body" is understood under 35 USC 112 6th paragraph, and that straps are one of the structures recited in the present application that correspond to that functional limitation.

Hourston has not included a drawing figure to correspond to the recitation in the spec. drawn to the straps. Hourston does not disclose explicitly that each of the at least two elongate pallet members has at least one underlying wear pad and that the means

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for securing each of the at least two elongate pallet members to the bottom of the bag body is accomplished with the least one underlying wear pad exposed.

Saito discloses at least two elongate pallet members having axially extending openings adapted to receive fork tines from a fork lift, means for securing each of the at least two elongate pallet members to the bottom of the bag body (straps, see Fig. 2). The strap configuration of Saito allows for the bottom of the pallet members to contact a supporting surface directly, and accordingly, the bottom of the pallet members comprises a wear pad.

Rosenfeldt explicitly discloses removable wear pads 42 (Fig. 4) on a pallet.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston with the pallet members and the corresponding teachings of attachment straps as taught by Saito, as such a pallet/strap arrangement would be easily assembled on the bulk bag. It further would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston with the explicit teachings of wear pads of Rosenfeldt, as wear surfaces such as wear pads are known to be of benefit in the long term durability of pallets.

With respect to claim 4 and 5, Rosenfeldt discloses first, second, and third wear pads, the benefits of which, have previously been stated.

With respect to claim 6, the wear pads of Rosenfeldt are removable, the benefit provided therewith being easy replacement.

With respect to claim 7, Saito discloses a gripping surface 35 in Fig. 10, providing article-gripping benefits.

With respect to claim 10, Hourston discloses plastic materials used to manufacture the pallets. Also note MPEP 2144.07, plastic being a known material used in pallet construction.

With respect to claim 12-14, note that Figs. 3 and 4 of Hourston shows voids within the pallets. Each of the embodiments of Saito includes voids that could be construed as perforations or as cut-outs. It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag and pallets of Hourston with the pallet members of Saito having perforations or cut-outs as the pallets so constructed have lower weight and higher strength.

With respect to claim 15, note that both Hourston and Saito disclose straps, the use of which are simplistic with corresponding benefits.

With respect to claim 22, note that Figs. 3 and 4 of Hourston shows voids within the pallets. Each of the embodiments of Saito includes voids that could be construed as perforations or as cut-outs. It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag and pallets of Hourston with the pallet members of Saito having perforations or cut-outs as the pallets so constructed have lower weight and higher strength.

With respect to claims 27-29, and 31, note that the limitations of these claims have all been addressed previously.

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Claims 2, 3, 11 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011 as applied to claim 1, 3-7,10, 12-15,22,27-29, and 31 above, and further in view of Hale, US Patent 5,044,502.

Hourston in view of Saito and Rosenfeldt does not explicitly disclose a single underlying wear pad.

Hale discloses wear pads 38 (see column 2 lines 54-58) that are integral with a pallet and extend from the first end to the second end of the pallet.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Saito and Rosenfeldt, with wear pads as taught by Hale which extend from the first end to the second end, as the length of the single wear pads, as is taught by Hale, provide a greater overall wear surface.

With respect to claim 3, Saito discloses transverse openings 15 which are suitable for the purpose of accommodating straps. It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston with the pallet members and the corresponding teachings of attachment straps as taught by Saito as the pallets are suitable for accommodating additional straps, if desired, to maximize security.

With respect to claims 11 and 30, the wear pads of Hale are integrally molded with the pallet members, the benefit of which being simplicity of manufacture as compared to removable wear pads.

Claims 8,9, 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011 as applied to claim 1, 3-7,10, 12-15,21,22,27-29, and 31 above, and further in view of Morgan et al., US Patent 5,440,998.

Hourston in view of Saito and Rosenfeldt discloses a textured top surface (see Saito element 35) but does not explicitly disclose a plurality of transverse parallel ribs.

Morgan discloses the use of a plurality of transverse parallel ribs in his various embodiments of pallets.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Saito and Rosenfeldt with the teachings of Morgan drawn to the use of a plurality of transverse parallel ribs, as ribs would necessarily assist in the frictional engagement of the bag on the pallet, minimizing slippage.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011 as applied to claim 1, 3-7,10, 12-15,22,27-29, and 31 above, and further in view of Dijkman, US Patent 4,830,191.

Hourston in view of Saito and Rosenfeldt discloses various means of attaching the bag to the pallets, but does not mention adhesive.

Dijkman discloses adhesive 26.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Saito and Rosenfeldt with the teachings of Dijkstra drawn to the use of adhesive, as the use of adhesive would be simple and inexpensive.

Claim 17,23 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011 as applied to claim 1, 3-7,10, 12-15,22,27-29, and 31 above, and further in view of Barrow et al., US Patent 5,507,237.

Hourston in view of Saito and Rosenfeldt do not disclose flaring the fork tine openings of pallet members. Note that the use of the expression "fluting" in this regard is not believed to be consistent with the common use of the term, which usually connotes longitudinal recesses, such as would be found on a column.

Barrow shows the openings of pallets being "fluted."

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Saito and Rosenfeldt with the teachings of "fluting" the openings as such a configuration allows for an easier entry of fork tines.

Claim 18, 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011 as applied to claim 1, 3-7,10, 12-15,22,27-29, and 31 above, and further in view of Wegener, US Patent 3,880,286.

Hourston in view of Saito and Rosenfeldt does not disclose wings.

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Wegener discloses pallet members with wings.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Saito and Rosenfeldt with the teachings of adding wings to the pallets, as doing so provides a greater support surface for the bag, thus minimizing the chance of tipping.

Claims 19, 20, 25, 26, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston et al., GB 2161452, in view of Saito et al., EP 0115551, and further in view of Rosenfeldt, US Patent 6,299,011 as applied to claim 1, 3-7, 10, 12-15, 21, 22, 27-29, and 31 above, and further in view of Ross et al., US Patent 6,332,098, Howard, US Published Application 2003/0107515, and Ishikawa et al., US Patent Application Publication 2002/0008048.

Hourston in view of Saito and Rosenfeldt do not disclose an electronic identification carrier on at least one of the pallet members.

Ross discloses an electronic identification carrier adapted to identify a package and distinguish from packages upon electronic interrogation. The electronic identification carrier is a microchip capable of encoding data regarding least one of the contents, weight, or shipping destination of the bulk bag.

Ishikawa teaches the use of identification on the pallet directly.

Howard teaches the use of GPS capabilities to a package identification system.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Saito and Rosenfeldt with the teachings of Ross, Ishikawa and Howard, so as to provide a system through which a

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bulk bag with integral pallets could be tracked and identified at any location through the use of a identification carrier comprising a microchip mounted on the pallet, the identification carrier having GPS capabilities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jdj



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